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 THE LARYNGEAL MASK COMPANY LTD.
 and LMA NORTH AMERICA, INC.

**IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

THE LARYNGEAL MASK COMPANY
 LTD. and LMA NORTH AMERICA, INC.,

Plaintiffs,

v.

AMBU A/S, AMBU INC., AMBU LTD.,
 and AMBU SDN. BHD.,

Defendants.

AMBU A/S, AMBU INC., AMBU LTD.,
 and AMBU SDN. BHD.,

Counterclaimants,

v.

THE LARYNGEAL MASK COMPANY
 LTD. and LMA NORTH AMERICA, INC.,

Counter-Defendants.

Civil Action No. 07 CV 1988 DMS (NLS)

**DECLARATION OF JOHN B. SGANGA
 IN OPPOSITION TO DEFENDANTS'
 MOTION FOR LEAVE TO AMEND
 ANSWER AND COUNTERCLAIMS**

Date: August 22, 2008

Time: 1:30 p.m.

Courtroom 10, 2nd Floor

Honorable Dana M. Sabraw

1 I, John B. Sganga, declare and state as follows:

2 1. I am a partner in the law firm of Knobbe, Martens, Olson & Bear, LLP, counsel of
3 record for Plaintiffs The Laryngeal Mask Company Ltd. and LMA North America, Inc.
4 (collectively "LMA") in this action. I submit this Declaration in Support of Plaintiffs'
5 Opposition to Defendants' Motion for Leave to File Amended Answer and Counterclaims. The
6 following statements are based on my personal knowledge unless otherwise indicated.

7 2. On July 3, 2008, Ambu's attorney, Charlene Morrow, sent a letter stating that
8 Ambu desired to amend its pleadings and asking whether LMA would stipulate to such an
9 amendment. This letter was submitted as Exhibit A to Ms. Morrow's declaration filed in support
10 of Defendant's Motion for Leave to File Amended Answer and Counterclaims.

11 3. On the same day, I responded to Ms. Morrow's letter via e-mail and requested to
12 see a copy of Ambu's proposed amended pleadings before agreeing to any stipulation.

13 4. Ms. Morrow responded via e-mail on July 7, 2008, stating she was awaiting
14 approval from her client and that she would send a draft once approval was received.

15 5. On July 8, 2008, recognizing that the July 11 deadline for either party to amend
16 their pleadings was rapidly approaching, I e-mailed Ms. Morrow to inform her that, based on her
17 representations about the anticipated content of the proposed new counterclaims, LMA was not
18 inclined to stipulate to an amendment. However, I informed Ms. Morrow that it would still be
19 helpful to review Ambu's proposed pleading to confirm that LMA's inclination was sound.
20 Attached hereto as Exhibit 1 is a true and correct copy of that July 8, 2008 e-mail from me, John
21 Sganga, to Charlene Morrow, including the exchanges preceding the July 8 e-mail which are
22 referenced above in paragraphs 3 and 4.

23 6. I did not receive a response from Ms. Morrow to my July 8, 2008 e-mail. On July
24 11, 2008, Ambu filed this Motion to Amend.

25 7. Contrary to Ambu's assertion at page 5 of its opening brief on this motion, I never
26 "informed Ambu that [LMA] would refuse to consent to this filing," nor am I aware of any other
27 LMA representative doing so.

28 8. On July 11, 2008, Ambu filed its Motion for Leave to Amend Answer and

1 Counterclaims. This was the first time that Ambu's proposed amended pleadings were made
2 available to me, or to any of LMA's counsel.

3 9. Attached hereto as Exhibit 2 is a true and correct copy of the Ambu AuraOnce
4 Brochure downloaded from the Ambu website on August 7, 2008 at the following URL:
5 http://www.ambu.com/RespiratoryCare/Respiratory_Care.aspx?GID=GROUP51&ProductID=P
6 ROD833.

7 10. Attached hereto as Exhibit 3 is a true and correct copy of U.S. Patent No.
8 7,156,100 to Brain, issued January 2, 2007, which is the patent asserted in this action by LMA.

9
10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct.

12
13 Executed this 8th day of August, 2008, in Irvine, California.

14
15 Dated: 8/8/08

16 By: 
17 John B. Sganga

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2008, I caused the foregoing **DECLARATION OF JOHN B. SGANGA IN OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER AND COUNTERCLAIMS** to be electronically filed with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to the applicable registered filing users.

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I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Dated: August 8, 2008


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